

Message Text

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ORIGIN EUR-02

INFO OCT-01 ISO-00 /003 R

66602

DRAFTED BY: EUR/RPM:RFROWICK

APPROVED BY: EUR/RPM:RFROWICK

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R 182136Z SEP 73

FM SECSTATE WASHDC

INFO USMISSION GENEVA 0000

C O N F I D E N T I A L STATE 146620

FOR US DEL-CSCE

FOLLOWING SENT ACTION NATO, INFO SECDEF, JULY 26, ALSO SENT
BONN AUGUST 20, FROM SECSTATE RPTD TO YOU:

QUOTE C O N F I D E N T I A L STATE 146620

E.O. 11652: GDS 12-31-79

TAGS: PFOR

SUBJECT: CSCE: DRAFT DECLARATION ON PRINCIPLES

REFS: (A) USNATO 3215; (B) USNATO 2452; (C) USNATO 3469

1. WE CONCUR IN POSITION TAKEN BY EC-9 (REF C) THAT
"BROAD OUTLINES" OF NEW FRENCH DRAFT DECLARATION ARE
ACCEPTABLE, AND AGREE THAT ITS NARRATIVE TREATMENT OF PRIN-
CIPLES HAS CERTAIN ADVANTAGES. AT THE SAME TIME, HOWEVER,
NEW FRENCH DRAFT REOPENS A NUMBER OF DIFFICULT PROBLEMS
WHICH EXISTED IN ORIGINAL FRENCH VERSION (USNATO 3862 AND
4082) AND WHICH WE BELIEVE NATO DRAFT (REF B) HAD OVERCOME.
IN OUR VIEW, THESE DIFFICULTIES WILL NEED TO BE RESOLVED
BEFORE FRENCH PAPER COULD BE ACCEPTED AS BASIC WORKING
DOCUMENT FOR ALLIES IN CSCE PHASE II AS EC APPEAR TO
ENVISAGE (PARA 2, REF C). MAJOR PROBLEM AREAS ARE AS
FOLLOWS:

(A) FRENCH TEXT SPEAKS IN THE TITLE AND THE 7TH
PREAMBULAR PARAGRAPH OF PRINCIPLES "GOVERNING" RELATIONS.
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IN OUR VIEW THIS WORD IMPLIES LEGAL COMMITMENTS WHICH THE

USG COULD ONLY MAKE BY TREATY. CONSEQUENTLY, WE URGED, AND ALLIANCE AND FINAL CSCE MANDATE ADOPTED, THE WORD "GUIDING" INSTEAD OF "GOVERNING". SEVENTH PREAMBULAR PARAGRAPH SHOULD READ "SHOULD GUIDE" INSTEAD OF "MUST GOVERN."

(B) THE FORMULATIONS FOUND IN THE SEVENTH PREAMBULAR PARAGRAPH, OPERATIVE PARAGRAPH 11, AND AT SEVERAL OTHER POINTS IN THE DRAFT RESPOND TO ALLIANCE DESIRE TO INCORPORATE LANGUAGE IN THE DECLARATION CONTRADICTING THE SOVIET DOCTRINE OF A SPECIAL RIGHT OF INTERVENTION. WE FEEL THAT TO ACHIEVE FULLY THIS OBJECTIVE, HOWEVER, POINT MUST BE CLEARLY MADE THAT ASSOCIATION WITH OTHER STATES IN A COMMON SYSTEM CANNOT BE USED AS AN EXCUSE TO DENY APPLICATION OF THE PRINCIPLES TO SUCH STATES. EITHER OF THE TWO OPTIONS SET FORTH IN FINAL PREAMBULAR PARAGRAPH REF B MAKES THIS POINT BETTER THAN DO FRENCH FORMULATIONS AND FRENCH DRAFT SHOULD BE REVISED ACCORDINGLY.

(C) THE DRAFT RAISES ANEW SEVERAL PROBLEMS CONCERNING THE GDR AND FOUR POWER RIGHTS WHICH WERE CAREFULLY EXCISED FROM THE ALLIANCE DRAFT. FOR EXAMPLE, OPERATIVE PARAGRAPH 1 ELABORATES UNNECESSARILY (AND IN A PREJUDICIAL MANNER AS FAR AS FOUR POWER RIGHTS ARE CONCERNED) ON THE PRINCIPLE OF SOVEREIGN EQUALITY BY OBLIGING PARTICIPANTS TO RECOGNIZE "THEIR SOVEREIGN EQUALITY AND ALL THE RIGHTS WHICH FLOW FROM IT" AND "THE RIGHTS INHERENT IN FULL SOVEREIGNTY". WE RECOGNIZE THAT THE MANDATE REFERS TO "RESPECT FOR THE RIGHTS INHERENT IN THE SOVEREIGNTY", BUT WE WOULD PREFER THAT A WESTERN DRAFT NOT VOLUNTEER SUCH LANGUAGE. IF WE ARE ISOLATED ON THIS POINT, HOWEVER, WE COULD ACCEPT SECOND OF TWO QUOTATIONS ABOVE WITH WORD "FULL" DELETED. BEGIN F.Y.I. FRENCH DRAFT HAS A USEFUL STATEMENT IN THIRD SENTENCE OF PARAGRAPH 7, SIMILAR TO ALLIANCE DRAFT PARAGRAPH 13, WHICH HELPS TO PROTECT FOUR POWER RIGHTS AS EXPLAINED SEPTTEL ON ALLIANCE DRAFT. END F.Y.I.

(D) IN PARAGRAPH 2 AND 3, THE FRENCH LINK INVIOABILITY OF FRONTIERS ONLY TO TERRITORIAL INTEGRITY (A SIMILAR CONCEPT), AND NOT TO NON-USE OF FORCE, AS THE CONFIDENTIAL

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FRG HAS INSISTED UPON AND AS CONTAINED IN THE EXISTING NATO DRAFT. SINCE THIS IS A QUESTION OF VITAL IMPORTANCE TO THE GERMANS, WE SHOULD BE PREPARED TO SUPPORT THE FRG IF THEY PRESS FOR REVISION OF THE FRENCH DRAFT IN THIS AREA.

(E) SECOND SENTENCE OF PARAGRAPH 4 GOES BEYOND FRIENDLY RELATIONS DECLARATION FORMULATION AND SHOULD

BE DELETED OR REDRAFTED. BEGIN F.I.Y. FORMULATION COULD BE USED TO ARGUE AGAINST FUTURE U.S. LEGISLATION WHICH MIGHT IMPINGE ON SOVIET INTERNAL AFFAIRS, SUCH AS PENDING JACKSON AMENDMENT. END F.Y.I.

(F) FIRST SENTENCE OF PARA 7 APPEARS DESIGNED TO REFUTE SOVIET INTERVENTION DOCTRINE BY LEAVING IMPLICATION THAT CERTAIN EXISTING INTERNATIONAL OBLIGATIONS (SUCH AS SOVIET-CZECH TREATY) MAY NOT HAVE BEEN CONCLUDED IN ACCORDANCE WITH INTERNATIONAL LAW AND THEREFORE ARE INVALID. THIS FORMULATION, HOWEVER, ALSO CAN BE READ AS A DEPARTURE FROM PACTA SUNT SERVANDA PRINCIPLE STAUNCHLY DEFENDED BY THE US AT THE VIENNA CONFERENCE ON THE LAW OF TREATIES. THIS DIFFICULTY COULD BE OVERCOME BY MOVING PHRASE "IN CONFORMITY WITH INTERNATIONAL LAW" TO END OF SENTENCE. SECOND SENTENCE OF PARAGRAPH 7 INCLUDES A STATEMENT, ALMOST IDENTICAL TO THAT CONTAINED IN THE SOVIET DRAFT, THAT THE DECLARATION WILL HAVE NO EFFECT ON TREATIES AND AGREEMENTS THEN IN EFFECT. THIS FORMULATION HAS THE DAMAGING EFFECT OF INSULATING THE SOVIET-CZECH FRIENDSHIP TREATY, AND OTHER OUTSTANDING SOVIET AGREEMENTS REFLECTING THE SOVIET INTERVENTION DOCTRINE, FROM THE IMPACT OF THE DECLARATION AND SHOULD BE OMITTED. WE WILL CONTINUE TO RESIST ATTEMPTS TO INCLUDE LANGUAGE WHICH COULD BE INTERPRETED TO THIS END.

(G) FRENCH DRAFT INCLUDES SEVERAL GOOD DRAFTING POINTS WHICH GO EVEN FURTHER THAN NATO DRAFT. FOR EXAMPLE, THE THIRD SENTENCE OF PARAGRAPH 1, THE PHRASE "QUELQUE SOIENT LEURS RAPPORTS MUTUELS" AT THE END OF THE FIRST SENTENCE OF PARAGRAPH 4, AND THE SECOND SENTENCE OF PARAGRAPH 8 ALL HELP TO REFUTE THE SOVIET INTERVENTION DOCTRINE. THE FORMULATION IN PARAGRAPH 9 ON HUMAN RIGHTS

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IS ALSO IN SOME RESPECTS STRONGER THAN THE ALLIANCE FORMULATION (IN WHICH FRENCH EARLIER CONCURRED). ON THE OTHER HAND, FRENCH DRAFT MAKES NO REFERENCE TO A PRINCIPLE ON HUMAN CONTACTS, WHICH WE BELIEVE SHOULD BE INCLUDED.

2. BEARING ABOVE COMMENTS IN MIND, WE ARE PREPARED TO DISCUSS FURTHER THE FORMULATIONS CONTAINED IN FRENCH DRAFT AND TO WORK WITH OTHER ALLIES FROM BASIS OF THIS TEXT IF THIS APPEARS TO BE THE EMERGING CONSENSUS. AT SAME TIME, YOU SHOULD REMIND EC MEMBERS THAT NATO TEXT IS RESULT OF LENGTHY STUDY AND COMPROMISE REFLECTING COMMENTS OF ALL ALLIES, AND SHOULD NOT BE ABANDONED IN FAVOR OF FRENCH APPROACH WITHOUT THOROUGH AND WIDE-RANGING DISCUSSION AND CONSENSUS. ROGERS UNQUOTE. RUSH

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PFOR
Control Number: n/a
Copy: SINGLE
Draft Date: 18 SEP 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: collinp0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE146620
Document Source: CORE
Document Unique ID: 00
Drafter: EUR/RPM:RFROWICK
Enclosure: n/a
Executive Order: RR
Errors: N/A
Film Number: n/a
From: SECSTATE WASHDC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730926/aaaaaspn.tel
Line Count: 168
Locator: TEXT ON-LINE
Office: ORIGIN EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 73 USNATO 3215, 73 USNATO 2452, 73 USNATO 3469
Review Action: RELEASED, APPROVED
Review Authority: collinp0
Review Comment: n/a
Review Content Flags:
Review Date: 04 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04-Oct-2001 by eisnerah>; APPROVED <01 MAR 2002 by collinp0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CSCE: DRAFT DECLARATION ON PRINCIPLES
TAGS: n/a
To: GENEVA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005